

M36

FILED
 UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

2008 AUG -6 AM 10:41

UNITED STATES OF AMERICA,

Plaintiff,


v.

Sergio CASTANEDA-Salazar,

Defendant

CLERK U.S. DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

Magistrate Docket No. '08 MJ 2436

BY  COMPLAINANT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326
 Deported Alien Found in the
 United States

The undersigned complainant, being duly sworn, states:

On or about **August 5, 2008** within the Southern District of California, defendant, **Sergio CASTANEDA-Salazar**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT

James Trombley
 Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 6th DAY OF AUGUST 2008


 Ruben B. Brooks
 UNITED STATES MAGISTRATE JUDGE

8/5/08

MSB

CONTINUATION OF COMPLAINT:
Sergio CASTANEDA-Salazar

PROBABLE CAUSE STATEMENT

On August 5, 2008, Border Patrol Agent B. Sington was performing assigned duties in the Imperial Beach Border Patrol Station's area of responsibility. At approximately 3:35 a.m., an Infrared Scope Operator notified Agents via Agency radio of five suspected illegal aliens in an area Northwest of the San Ysidro, California Port of Entry.

Agent Sington responded to the area and after a brief search encountered five individuals attempting to flee towards Mexico. Three individuals were able to flee into Mexico. Agent Sington found the other two hiding in brush. Agent Sington identified himself as a United States Border Patrol Agent and questioned the two as to their citizenship. Both individuals, including one later identified as defendant **Sergio CASTANEDA-Salazar**, admitted to being citizens and nationals of Mexico without any immigration documents that would allow them to be or remain in the United States legally. Both individuals were arrested and transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on June 10, 2008 through San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally. He also stated he was going to Los Angeles, California.